



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION 10**

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OFFICE OF
ECOSYSTEMS, TRIBAL AND
PUBLIC AFFAIRS

March 23, 2012

Ted Davis, Manager
Bureau of Land Management
Baker Field Office
P.O. Box 947
Baker City, Oregon 97814

Re: Comments on the Draft Baker Resource Management Plan and EIS (EPA Project Number: 08-072-BLM).

Dear Mr. Davis:

In accordance with our responsibilities under the Clean Air Act §309 and the National Environmental Policy Act (NEPA), the US Environmental Protection Agency (EPA) has reviewed the US Bureau of Land Management (BLM) **draft Resource Management Plan/Environmental Impact Statement (Draft RMP/EIS) for the Baker Field Office** in Oregon and Washington (CEQ no. 20110393).

The draft RMP/EIS evaluates potential environmental impacts associated with various management strategies to guide resource use and protection, and human activity on Baker Resource Area that includes parts of Baker, Union, Wallowa, Malheur, Morrow, and Umatilla Counties in Oregon and Asotin in Washington. The planning area is about 9 million acres, of which BLM administers nearly 428,425 surface acres and almost 4 million of subsurface/mineral-estate acres, collectively referred to as the Decision Area. The remaining acreage is in other federal agencies, tribal and private ownership. The proposed RMP will replace the existing Baker RMP approved in 1989 and which is now outdated to respond to growing needs and changed conditions of the Decisions Area.

For analysis of impacts from the proposed action, BLM considered five action alternatives (1-5), a sub-alternative (5a), and a No Action. The draft RMP/EIS identifies Alternative 1 as the Preferred Alternative. Under Alternative 1, resource management would include an adaptive management strategy and ensure long-term ecosystem health and resiliency. Its primary focus would be habitat restoration, especially the Wyoming big sagebrush and riparian habitats in areas where resource analysis show degraded conditions. Alternative 1 would also restrict energy developments and mineral extractions to moderate acreage and/or exclude them in sensitive areas.

The EPA recognizes the challenges of managing resources on noncontiguous tracts of lands involving a mix of ownership, especially when addressing multiple statutory requirements to protect resources and restore the environment. Thus, we commend BLM for efforts in putting together the proposed RMP/EIS, which can serve as a guide for future development of individual plans and projects. We also note with appreciation that the RMP/EIS includes responses to public comments and that identification of planning criteria, significant issues, and alternative actions addressed in the RMP/EIS considered inputs received from the public. The document also addresses many of the issues we raised during the scoping period.

Overall, the draft RMP/EIS includes a good description of resources within the project area, analysis of anticipated environmental impacts, and measures to offset the impacts. Because of its general nature, the RMP/EIS should make it clear that there will be separate NEPA analysis for individual land use and resource management plans and projects tiered to this RMP/EIS and that could involve potentially significant impacts to resources within the Planning Area. In particular, we anticipate adequate analysis of impacts from new energy developments, transportation and livestock grazing plans and projects due to their significant importance in the planning area (p. S-2). Accordingly, we acknowledge that BLM plans to complete an official Travel Management Plan (TMP) for the Decision Area in the near future (p. 1-13).

Because the draft RMP/EIS is not clear about the outcomes of previous management scenarios under the 1989 Baker Resource Management Plan, we recommend that the final RMP/EIS discuss the results of monitoring programs that tracked the results of management directions taken under the old/current RMP, and document adaptive management changes made and currently proposed. The description of the affected environment should incorporate these conditions and outcomes. We would expect that lessons learned from past practices and adaptive management efforts, combined with the need to account for new challenges such as climate change, would influence proposed management directions in this RMP/EIS.

The draft RMP/EIS overall vision, planning criteria, and processes illustrate the multiple and often conflicting uses inherent in land use and management planning. Because of that, the RMP/EIS proposes several action alternatives to address that complexity. Of all action alternatives proposed, the EPA would support Alternative 4, which would emphasize management actions that appear to move the landscape most rapidly towards long-term ecosystem health and resiliency, and maintain and/or restore ecosystem health. Alternative 4 would also result in fewer impacts overall when compared with the Preferred Alternative due to reduced grazing pressure, transportation, and higher Right-Of-Way (ROW) exclusion acres for key sage grouse habitat. We would also support implementation of the Preferred Alternative with modifications to address impacts to resources in the planning area from livestock grazing, mining, ROW and energy development, including impacts to water quality as explained in the attached detailed comments.

Because of the proposed action potential impacts to water quality within 303(d) listed streams, biota and habitat, we recommend the following:

- BLM continue to work with Oregon Department of Environmental Quality (ODEQ) and Tribes affected by the RMP/EIS to assure that state and tribal water resources (quantity and quality) are protected and used judiciously throughout the life of the RMP. Also, update water quality standards data commensurate with changes the EPA and ODEQ have recently made.
- The final RMP/EIS include updated information on how BLM will be working collaboratively with ODEQ to ensure compliance with Water Quality Restoration Plans that will function as BLM's share of Total Maximum Daily Loads (TMDLs) implementation in the Decision Area and vicinity.
- The final RMP/EIS include outcomes of consultations and conferences with the US Fish and Wildlife Service and National Marine Fisheries Service, including recommended measures to reduce risks and protect biota and habitat. Similarly, updated discussion on work with Oregon Department of Fish and Wildlife will also be important.

Based on our review, we have assigned a rating of EC-2 (Environmental Concerns - Insufficient Information) to the draft RMP/EIS. An explanation of this rating is enclosed.

We appreciate the opportunity to review this draft RMP/EIS. If you have question about our comments, please contact me at (206) 553-1601 or by electronic mail at reichgott.christine@epa.gov, or you may contact Theo Mbabaliye of my staff at (206) 553-6322 or electronic mail at mbabaliye.theogene@epa.gov.

Sincerely,

A handwritten signature in blue ink, reading "Christine B. Reichgott".

Christine B. Reichgott, Manager
Environmental Review and Sediment Management Unit

Enclosure
EPA Rating System for Draft EISs

cc: Oregon Department of Environmental Quality

Detailed EPA Comments on the Draft Resource Management Plan/EIS (Draft RMP/EIS) for BLM Baker Field Office, OR

Range of Alternatives

The draft RMP/EIS includes a range of reasonable alternatives to meet the stated purpose and need for the RMP and to respond to issues identified during the scoping process. In addition, the document presents environmental impacts of each alternative in a comparative form that makes it easier for the decision-maker and public to choose among the different alternatives (p. S-14 to S-19). The draft RMP/EIS further identifies Alternative 1 as the Preferred Alternative. We appreciate the information provided in response to our scoping comments on the range of alternatives, and identification of Alternative 1 as the Preferred Alternative for the draft RMP/EIS. We believe, however, that Alternative 4 would be the best choice to protect natural resources.

The draft RMP/EIS states that Alternative 4 would emphasize management actions that are the quickest to move towards long-term ecosystem health and resiliency and promote activities that maintain and/or restore ecosystem health (p. S-10). Under Alternative 4, there would also be a special focus on aggressive protection and restoration measures to maintain or enhance native vegetation, biodiversity, and connectivity. Specifically, reclamation of the Wyoming big sagebrush vegetation would be at a ratio of 1:3 ratio and riparian habitats would be improved by maintaining a minimum of 6-8 inches stubble height for all streams on the planning area and streams that flow at least one-eighth of a mile across public lands. Other features include use of integrated vegetation management tools, grazing exclusions of up to 94,165 acres, restoration mileage of 80 miles per 10 years, ROW exclusion areas for energy development projects of about 82,000 acres for wind energy only and nearly 44,000 for all others, and the highest number of acres (94,000 acres) designated as Areas of Critical Environmental Concern.

Water Resources and Impacts

Information in the draft RMP/EIS states that BLM has been working cooperatively with Oregon Department of Environmental Quality (ODEQ) to ensure compliance with available Water Quality Restoration Plans that will function as BLM's share of Total Maximum Daily Loads (TMDLs) implementation to comply with State and Federal water quality regulations. We support the approach and collaboration between ODEQ and BLM. We note that while several subbasins in the Decision Area have TMDLs and Water Quality Management Plans (WQMPs), others do not, including the Burnt River and Powder River subbasins that cover the majority of the Decision Area.

While we appreciate the information provided about the status of all TMDLs and WQMPs for the Decision Area, we believe that data in Table 3-6 and 7 (p. 3-18, 3-19) may not be up to date. For example, TMDLs for Lower Grande Ronde and Willow are now available. Please also note that on March 15, 2012, the EPA approved new 303(d)¹ listings and de-listings for Oregon. In addition, on October 2011, the EPA also approved Human Health Toxics Water Quality Standards² for Oregon, which establish goals for the State's surface waters, including protecting sources of drinking water and helping ensure that fish from Oregon's waters are safe to eat. Therefore, the final RMP/EIS should update information to reflect any new and relevant information about water quality, including TMDLs,

¹ <http://www.deq.state.or.us/wq/assessment/2010Report.htm>

² <http://www.deq.state.or.us/wq/standards/humanhealthrule.htm>

WQMPs, and water quality criteria to protect beneficial uses. We also recommend that the final RMP/EIS include information from these most current 303(d) lists, note any differences between the 2004-2006 and most current lists for relevant parameters and water bodies in the planning area, and discuss analyses and conclusions that may be affected by the more recent information.

Since thermal modification is the primary cause of streams not supporting beneficial uses in the Decision Area, early actions to increase shade and cover to minimize thermal impacts to water quality would be useful within the Decision Area. Thank you for providing the Proper Functioning Condition (PFC) assessment results for some riparian areas within the Decision Area (p. 3-21). We note that out of a total of 1,863 miles of streams in the Decision Area, only about 460 miles (or 25%) of streams have been surveyed. The PCF results also show that over half of those surveyed streams are either non-functional, functioning at risk with a downward or no apparent trend due primarily to livestock grazing and wildlife, roads, and mining (p. 3-21). As these activities would continue in the future, it is possible that additional water quality impacts from new activities would significantly contribute to the current impact, particularly if they would occur closer to the 303(d) listed waters.

Although some riparian areas in the project area will be restored (50 stream miles in 10 years under Alternative 1 and 80 miles under Alternative 4), we are concerned about sites where continued livestock grazing is likely to further degrade streams through increased entrenchment due to streambank scouring, erosion, poor drainage and loss of soil and riparian vegetation. Stream degradation results in the transformation of healthy stream channels into Rosgens' F or G channels that have the potential to contribute significant sediment bedloads to the system, thus slowing the rate of water quality and stream health recovery. Because there are such stream channels in the project area, we believe that additional protection of certain riparian areas is warranted, such as within Powder and Burnt River subbasins where a significant number of stream miles are poorly functioning and other areas where F and G channels are near high quality habitat(s), drinking water sources, and other sensitive resources. In such cases, we recommend that grazing exclusions be considered to move existing resource conditions toward desired future conditions more rapidly in high value riparian areas. Active restoration should also target such areas to increase vegetation cover and improve thermal conditions of the stream channels.

Because of potentially significant livestock grazing impacts on riparian areas and a lack of up to date PCF and rangeland health assessments data for the entire Decision Area, we recommend completion of those assessments, release of their results for public review, and grazing management that reflects conclusions from the assessments. The final RMP/EIS should also identify added precautions to take when grazing or other planned activities occur near vulnerable streams and ditches that drain into them to reduce or avoid impacts to water quality; especially areas that are functioning at high risk or are already impaired. As there are fish bearing streams on the Decision Area, BLM should coordinate with appropriate agencies to define grazing, mining, travel (roads, Off Highway Vehicles, recreation), and wildlife practices that would be more protective of fishery resources within water quality-limited streams.

The draft RMP/EIS identifies streams in the Decision Area that are on the 303(d) list and indicates that temperature and sediment are most common pollutants associated with stream water quality. Others include bacteria, dissolved oxygen, algae, flow and habitat alterations, nutrients, pH, and unknown sources (p. 3-17). There are also about 159 reservoirs and 25 springs within the Decision Area, which are locally important for wetland vegetation, wildlife, livestock watering, and drinking water for

recreationists. The Decision Area also includes three source water protection areas, Goodrich Creek, Columbia River, and Umatilla River.

Given the susceptibility of soils to erosion and predicted increases in access for recreation and use of recreational equipments, we are concerned that ground disturbing activities such as blasting, surface grading, excavation, surface pavement, and travel could adversely affect water quality. Because of those activities, altered hydrology of springs and surface runoff would allow erosion to carry sediment and pollutants to waterways in the planning area. In addition, the activities would accelerate infiltration and migration of pollutants through soils to the underlying aquifer thereby affecting groundwater quality and eventually surface water quality. Further, groundwater extraction, land disturbance, material storage, waste disposal, inadvertent chemical or hazardous liquid spills, and compaction produced by vehicular traffic can all affect recharge to the local aquifer and groundwater quality. Because of such potential impacts to water quality, we recommend monitoring of this aspect of the project to assure that water quality is protected.

The draft RMP/EIS states that up to 39 percent of the planning area (~160,000 acres) has soils highly vulnerable to erosion and that low precipitation leaves the soils more vulnerable to management actions, even on gentle slopes (p. 3-29). At the same time, the document also shows that BLM controls a total of 1,069 miles of road or 1.6 miles of road per square mile on the Decision Area (p. 212). In addition, there are more than 2300 miles of trails in the planning area and recreational use of all access routes was up to 662,054 for 328542 days in 2009 alone.

We realize that, due to the fragmented nature of the BLM lands, it is necessary to coordinate and work collaboratively with other public and private landowners to manage aquatic resources and improve water quality. In addition to applying needed protection and restoration measures on BLM lands and managing multiple uses to protect and restore aquatic resources, we recommend that BLM continue to engage with local watershed councils and advisory groups in evaluating aquatic resources conditions, development of TMDLs and their implementation, and monitoring so corrective actions may be taken to meet environmental standards.

Mining Activities and Impacts

The draft RMP/EIS discusses leasable, locatable, and salable minerals in the planning area and how the RMP would treat each under individual alternative action. Please note that the EPA has interest in and concerns with the matter of mineral leasing on public lands due primarily to our responsibilities under the Clean Water Act and other statutes, particularly those concerned with the permitting of discharges of wastewater from mining facilities to waters of the U.S. and cleanup of environmental contamination. Accordingly, the EPA would be interested in data on:

- Location and extent of mineral resources in the planning area.
- Past, current, and predicted level of mineral extractions.
- Past and current direct, indirect, and cumulative impacts of mining activities on the human environment.
- Potential conflicts with other resource management and uses e.g., recreation, energy development, special biota and fauna, and others.
- Applications for new and expansion of existing mineral withdrawals and their potential impacts.
- Mitigation measures for the impacts and monitoring plans.

We note that, under Alternative 1 and 4, there would be withdrawal of nearly 24,000 acres from mining activities, especially in sensitive resource areas. Where the activities would continue, however, it would be important to anticipate possible violations of environmental standards during operations and have mechanisms, such as modifications to mine plans in place to correct potential problems immediately. In particular, we recommend that the mining impact studies and assumptions (p. 4-654) acknowledge the need for adequate financial assurance for mining on public land to ensure reclamation and maintenance of mining sites would achieve reclamation goals and post-mining land use objectives. To that end, the RMP/EIS should acknowledge the need for disclosure and public involvement in establishing reclamation cost estimates. Such management direction is necessary to assure the public and decision-makers of the financial risk to the public posed by conditions at mining sites.

Vegetation and Wildlife Impacts

The draft RMP/EIS states that big sagebrush (Wyoming and mountain), riparian and wetland communities account for the largest portion (68%) of range vegetative communities in the planning area. Impacts to these communities, therefore, are of special concern as described on p. 4-99. The largest sources of the impacts are livestock grazing and fire suppression activities, but also ongoing energy developments and mining. Our concern is that if the activities were to intensify in those habitat types, there would be increased risks to special status species such as sage grouse, pygmy rabbit, nesting migratory birds (e.g. ferruginous hawk) due to habitat fragmentation and loss or alteration e.g., conversion of sagebrush habitats to annual rangelands, and edge effects favoring some species and not others. Because of an arid environment at the project site, however, planted vegetation would take years to establish or restoration could fail, thus exacerbating loss of cover and habitat for the species.

To improve habitats over time while reducing the risks to dependent species, we recommend management such as that described in Alternative 4 and to some extent Alternative 1. Both alternatives emphasize restoration of sagebrush and riparian communities, reduced grazing pressure, and moderate restrictions to Right-Of-Way developments. Alternative 4, however, would involve more rapid action and rigorous measures to restore those habitats.

Since habitat management for sage grouse conservation has become a hot topic recently, we recommend BLM coordinate with the US Fish and Wildlife Service (USFWS) to identify management practices that would reduce risks to sage grouse and improve its habitat. For more information on measures to preserve sage grouse, please consult the *National Greater Sage-Grouse Conservation Measures*³ report produced by the Sage-grouse National Technical Team and made available after release of the draft RMP/EIS.

We understand that BLM has initiated consultation and conference with the Service and that a biological assessment for the RMP may be due this summer. The final RMP/EIS should discuss outcomes of the consultations and conferences with USFWS and recommended measures to reduce risks and protect biota and habitat.

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http://www.blm.gov/pgdata/etc/medialib/blm/wo/Information_Resources_Management/policy/im_attachments/2012.Par.52415.File.dat/IM%202012-044%20Att%201.pdf

Access and Recreation Issues

The draft RMP/EIS indicates that the public complaints and inquiries regarding access to lands within the Decision Area have increased significantly within the last ten years (p. 213). In addition, the document indicates BLM's own access to the lands is limited or nonexistent, which restricts its ability to manage or monitor resource values, authorized uses, or unauthorized activities occurring on those lands. The RMP/EIS is not clear about the responsibility for managing road density, logging roads, and maintenance of those roads. Since the RMP/EIS also indicates that access and travel are likely to increase in the future, we recommend that the final RMP/EIS include more specific information on road maintenance responsibilities and funding sources, and how new road construction projects will be managed to reduce environmental impacts by roads.

RMP Implementation and Monitoring

The RMP/EIS analysis of effects from the various alternatives uses a number of analytical assumptions, including sufficient funding and personnel to implement the final decision. We are concerned with this assumption because, currently, not all lands within the planning area are receiving enough attention to evaluate their condition, there are many documented and unresolved unauthorized use and/or occupancy cases in the area, and BLM expects there are undocumented trespass cases. Workload priorities, limited staffing, and a lack of access appear to cause these unauthorized uses to go unresolved.

We question whether this assumption of adequate staffing and funding to manage lands in the planning area is realistic and appropriate for use in predicting the environmental consequences of the proposed actions. The final RMP/EIS should include a work plan or strategy with predicted timelines and personnel to show how proposed prescriptions, standards and guidelines, and constraints would be implemented, monitored, and enforced. Alternatively, BLM could qualify the predicted outcomes with an appropriate level of uncertainty based on the existing and reasonably foreseeable level of staffing and resources.

**U.S. Environmental Protection Agency Rating System for
Draft Environmental Impact Statements
Definitions and Follow-Up Action***

Environmental Impact of the Action

LO – Lack of Objections

The U.S. Environmental Protection Agency (EPA) review has not identified any potential environmental impacts requiring substantive changes to the proposal. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposal.

EC – Environmental Concerns

EPA review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce these impacts.

EO – Environmental Objections

EPA review has identified significant environmental impacts that should be avoided in order to provide adequate protection for the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no-action alternative or a new alternative). EPA intends to work with the lead agency to reduce these impacts.

EU – Environmentally Unsatisfactory

EPA review has identified adverse environmental impacts that are of sufficient magnitude that they are unsatisfactory from the standpoint of public health or welfare or environmental quality. EPA intends to work with the lead agency to reduce these impacts. If the potential unsatisfactory impacts are not corrected at the final EIS stage, this proposal will be recommended for referral to the Council on Environmental Quality (CEQ).

Adequacy of the Impact Statement

Category 1 – Adequate

EPA believes the draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis of data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.

Category 2 – Insufficient Information

The draft EIS does not contain sufficient information for EPA to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the EPA reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the draft EIS, which could reduce the environmental impacts of the action. The identified additional information, data, analyses or discussion should be included in the final EIS.

Category 3 – Inadequate

EPA does not believe that the draft EIS adequately assesses potentially significant environmental impacts of the action, or the EPA reviewer has identified new, reasonably available alternatives that are outside of the spectrum of alternatives analyzed in the draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. EPA believes that the identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. EPA does not believe that the draft EIS is adequate for the purposes of the National Environmental Policy Act and or Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised draft EIS. On the basis of the potential significant impacts involved, this proposal could be a candidate for referral to the CEQ.

* From EPA Manual 1640 Policy and Procedures for the Review of Federal Actions Impacting the Environment. February, 1987.